

Calendar No. 198

115TH CONGRESS
1ST SESSION

S. 1038

To require the Administrator of the Small Business Administration to submit to Congress a report on the utilization of small businesses with respect to certain Federal contracts.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2017

Mrs. ERNST (for herself, Mrs. GILLIBRAND, Ms. HIRONO, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

AUGUST 2, 2017

Reported by Mr. RISCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To require the Administrator of the Small Business Administration to submit to Congress a report on the utilization of small businesses with respect to certain Federal contracts.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 *Congress finds that—*

1 (1) since the passage of the Budget Control Act
2 of 2011 (Public Law 112-25; 125 Stat. 240), many
3 Federal agencies have started favoring longer-term
4 Federal contracts, including multiple award con-
5 tracts, over direct individual awards;

6 (2) these multiple award contracts have grown
7 to more than one-fifth of Federal contract spending;
8 with the fastest growing multiple award contracts
9 surpassing \$100,000,000 in obligations for the first
10 time between 2013 and 2014;

11 (3) in fiscal year 2017, 17 of the 20 largest
12 Federal contract opportunities are multiple award
13 contracts;

14 (4) while Federal agencies may choose to use
15 any or all of the various socio-economic groups on a
16 multiple award contract, the Small Business Admin-
17 istration only examines socio-economic performance
18 through the small business procurement scorecard
19 and does not examine potential opportunities by
20 those groups; and

21 (5) Congress and the Department of Justice
22 have been clear that no individual socio-economic
23 group shall be given preference over another.

24 **SEC. 2. DEFINITIONS.**

25 In this Act—

1 (1) the term “Administrator” means the Ad-
2 ministrator of the Small Business Administration;

3 (2) the term “covered small business concerns”
4 means—

5 (A) HUBZone small business concerns;

6 (B) small business concerns owned and
7 controlled by service-disabled veterans;

8 (C) small business concerns owned and
9 controlled by women; and

10 (D) socially and economically disadvan-
11 taged small business concerns, as defined in
12 section 8(a)(4)(A) of the Small Business Act
13 (~~15 U.S.C. 637(a)(4)(A)~~), receiving assistance
14 under such section 8(a); and

15 (3) the terms “HUBZone small business con-
16 cern”, “small business concern”, “small business
17 concern owned and controlled by service-disabled
18 veterans”, and “small business concern owned and
19 controlled by women” have the meanings given those
20 terms in section 3 of the Small Business Act (~~15~~
21 U.S.C. 632).

22 **SEC. 3. REPORT.**

23 (a) IN GENERAL.—Not later than 180 days after the
24 date of enactment of this Act, the Administrator shall sub-
25 mit to the Committee on Small Business and Entrepre-

1 neutrality of the Senate and the Committee on Small Busi-
2 ness of the House of Representatives a report that in-
3 eludes—

4 (1) a determination as to whether small busi-
5 ness concerns and each category of covered small
6 business concerns described in subparagraphs (A)
7 through (D) of section 3(2) are being utilized in a
8 significant portion of the Federal market on multiple
9 award contracts, including—

10 (A) whether awards are being reserved for
11 one or more of those categories; and

12 (B) whether each such category is being
13 given the opportunity to perform on multiple
14 award contracts;

15 (2) a determination as to whether performance
16 requirements for multiple award contracts, as in ef-
17 feet on the day before the date of enactment of this
18 Act, are feasible and appropriate for small business
19 concerns; and

20 (3) any additional information as the Adminis-
21 trator may determine necessary.

22 (b) REQUIREMENT.—In making the determinations
23 required under subsection (a), the Administrator shall use
24 information from multiple award contracts—

1 (1) with varied assigned North American Indus-
2 try Classification System codes; and
3 (2) that were awarded by not less than eight
4 Federal agencies.

5 **SECTION 1. FINDINGS.**

6 *Congress finds that—*

7 (1) since the passage of the Budget Control Act
8 of 2011 (Public Law 112–25; 125 Stat. 240), many
9 Federal agencies have started favoring longer-term
10 Federal contracts, including multiple award con-
11 tracts, over direct individual awards;

12 (2) these multiple award contracts have grown to
13 more than one-fifth of Federal contract spending, with
14 the fastest growing multiple award contracts sur-
15 passing \$100,000,000 in obligations for the first time
16 between 2013 and 2014;

17 (3) in fiscal year 2017, 17 of the 20 largest Fed-
18 eral contract opportunities are multiple award con-
19 tracts;

20 (4) while Federal agencies may choose to use any
21 or all of the various socio-economic groups on a mul-
22 tiple award contract, the Small Business Administra-
23 tion only examines socio-economic performance
24 through the small business procurement scorecard and

1 *does not examine potential opportunities by those*
2 *groups; and*

3 *(5) Congress and the Department of Justice have*
4 *been clear that no individual socio-economic group*
5 *shall be given preference over another.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act—*

8 *(1) the term “Administrator” means the Admin-*
9 *istrator of the Small Business Administration;*

10 *(2) the term “covered small business concerns”*
11 *means—*

12 *(A) HUBZone small business concerns;*

13 *(B) small business concerns owned and con-*
14 *trolled by service-disabled veterans;*

15 *(C) small business concerns owned and con-*
16 *trolled by women; and*

17 *(D) socially and economically disadvan-*
18 *taged small business concerns, as defined in sec-*
19 *tion 8(a)(4)(A) of the Small Business Act (15*
20 *U.S.C. 637(a)(4)(A)), receiving assistance under*
21 *such section 8(a); and*

22 *(3) the terms “HUBZone small business con-*
23 *cern”, “small business concern”, “small business con-*
24 *cern owned and controlled by service-disabled vet-*
25 *erans”, and “small business concern owned and con-*

1 *trolled by women” have the meanings given those*
2 *terms in section 3 of the Small Business Act (15*
3 *U.S.C. 632).*

4 **SEC. 3. REPORT.**

5 (a) *IN GENERAL.—Not later than 180 days after the*
6 *date of enactment of this Act, the Administrator shall sub-*
7 *mit to the Committee on Small Business and Entrepreneur-*
8 *ship of the Senate and the Committee on Small Business*
9 *of the House of Representatives a report that includes—*

10 (1) *a determination as to whether small business*
11 *concerns and each category of covered small business*
12 *concerns described in subparagraphs (A) through (D)*
13 *of section 2(2) are being utilized in a significant por-*
14 *tion of the Federal market on multiple award con-*
15 *tracts, including—*

16 (A) *whether awards are being reserved for 1*
17 *or more of those categories; and*

18 (B) *whether each such category is being*
19 *given the opportunity to perform on multiple*
20 *award contracts;*

21 (2) *a determination as to whether performance*
22 *requirements for multiple award contracts, as in ef-*
23 *fect on the day before the date of enactment of this*
24 *Act, are feasible and appropriate for small business*
25 *concerns; and*

1 (3) any additional information as the Adminis-
2 trator may determine necessary.

3 (b) REQUIREMENT.—In making the determinations re-
4 quired under subsection (a), the Administrator shall use in-
5 formation from multiple award contracts—

6 (1) with varied assigned North American Indus-
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